MESSRS. SRINIVASA RAO and VENKATAVARADACHAR represented that they were only Representative Assembly members and had no access to the District Board and prayed that Government themselves might scrutinise the account and intimate the members what was still due from them to adjust the railway accounts.

On THE SECOND MEMBER OF COUNCIL promising to inquire into the matter, the resolution was withdrawn.

At this stage, the Assembly rose for lunch and re-assembled at 3-30 P.M.

GOVERNMENT BUSINESS.

III. General Principles of the Bill further to amend the Mysore Mines Regulation, 1906.

THE LAW SECRETARY TO GOVERNMENT explained the general principles of the Bill as follows:—

A statement of general principles of this Bill was placed before the Representative Assembly at the last Dasara Session. While approving of Clause 2 of the Bill, the Assembly desired that the class of undesirable persons liable to removal from the Mining Area should be clearly defined and that before passing an order directing such removal the person affected thereby should be given an opportunity to state his objection and also adduce evidence in support of it. It was further suggested that the limit of six months to the currency of such an order in the first instance should apply not only to subjects of His Highness the Maharaja paying land revenue but also to those who pay rates or taxes to any local authority in the State.

The Bill has now been revised in the light of the foregoing suggestions and appended to this statement.

A Bill to amend the Mysore Mines Regulation, 1906.

Whereas it is expedient further to amend the Mysore Mines Regulation, 1906, it is hereby enacted as follows:—

1. For Section 17 of the Regulation the following shall be substituted:—

"17. (1) The Superintendent of Police for the Kolar Gold Fields may by an order direct any person, whose residence within such area as may be notified by the Government from time to time is considered undesirable, to quit the said area within twenty-four hours and such persons

shall not, after the lapse of the said time, remain in or re-enter that area without the permission of the said Superintendent of Police.

(2) Before making an order under sub-section (1) the Superintendent of Police shall

(*a*) cause a notice to be served on the person concerned, in the manner provided in Chapter VI of the Code of Criminal Procedure for the service of summons, indicating why his presence in the area specified therein is considered undesirable and calling upon him to show cause within the period fixed in the notice why he should not be directed to quit the said area, and

(*b*) record his objection and the evidence in support of it, if any, he may offer.

(3) Where the person against whom an order is made under this section after inquiry as provided in sub-section (2) is a subject of His Highness the Maharaja owning land assessed to land revenue or paying any tax or rate to the Government or to any local authority, the order shall be in force for a period of six months only provided that this period may be extended from time to time by further orders passed after fresh inquiry in conformity with the procedure laid down in sub-section (2).

(4) Nothing herein contained shall be deemed to invalidate an order made without inquiry as provided in sub-section (2) where, in the opinion of the Superintendent of Police, the interests of the Gold Mining Industry demand the immediate removal of the person affected thereby.

(5) An order made under sub-section (4) shall be in force for a period of one month only unless a further order in conformity with the procedure laid down in sub-section (2) is sooner passed.

(6) Every order made under this section shall be in writing and shall contain a statement of the reasons therefor.

(7) An order made under this section may be cancelled by the Superintendent of Police or by the District Magistrate.

Explanation.—No person shall be deemed to be an undesirable resident for the purpose of this section unless—

(*a*) He has previously convicted of—

(*i*) an offence punishable under Section 13 of this Regulation, or

(*ii*) theft of mining material or dishonestly receiving or retaining stolen mining material, or

(*b*) There is grave suspicion of his complicity in committing theft of or dishonestly receiving or retaining stolen mining material, or

(*c*) He is a disorganiser of labour, or

(*d*) He has no ostensible means of subsistence, or

(*e*) His presence on the Kolar Gold Fields may otherwise be a source of danger or loss to the Gold Mining Industry."

2. To sub-section (2) of Section 35 of the Regulation the following clause shall be added:—

" (*c*) Power to write off as irrecoverable, subject to such conditions as the Government may prescribe, sums due on account of any tax, rate or cess or the costs in recovering such tax, rate or cess."

MR. B. NARASINGA RAO observed that the only point for consideration was whether the amendment was in favour of labourers or against them. He said that he had pressed on the attention of the Government at various times in the Legislative Council the necessity to delete Section 19 of the Regulation, but that the Government did not agree. In the course of a resolution moved by him in the Legislative Council some years previously, he said that he again pressed for the power being entrusted to the Magistrate instead of to the Superintendent of Police so as to enable the party affected to contest the Magistrate's order in appeal. The reason was that the Chief Court had no jurisdiction over an executive order. He had also brought forward several other important points for consideration, namely, the necessity for a correct definition of the word " undesirable," etc. There was no doubt, he said, that in the amendment placed before the Council, provision had been made for a preliminary enquiry and also for an appeal to the Deputy Commissioner. The only point that he stressed was that the enquiry should be entrusted to the Special Magistrate who was already there and not to the Police. He said that the people had no faith in the Police. When the matter had been discussed in the Council on a previous occasion, every one of the Government officers present agreed with that view, as was evident from the published proceedings of the Legislative Council. He therefore again strongly urged that even though the Magistrate's enquiry might be summary an appeal to the Chief Court should be provided.

THE DEWAN said that, if possible, an appeal to the District Magistrate might be provided.

MR. B. NARASINGA RAO replied that there was no use

of it and that he could not agree to it. He insisted that provision should be made to test the order in the Chief Court. The matter was one which affected the liberty of a person. Wherever there was a similar Regulation in force, such as Western Australia, Transvaal, Quebec, etc., nowhere such a provision existed.

THE INSPECTOR-GENERAL OF POLICE said that in Bombay City, the Police Commissioner had such powers.

MR. B. NARASINGA RAO observed that that was a special provision which was quite necessary to meet certain emergencies.

THE SECOND MEMBER OF COUNCIL said that the Government had no objection to entrust the enquiry to the Magistrate instead of to the Superintendent of Police, but that it was not possible to provide for an appeal to the Chief Court.

THE DEWAN remarked that the interests involved were very large.

MR. B. NARASINGA RAO, while conceding that point, said that because the interests involved were large, it was not right to placate the people in the manner suggested. While the output of gold in the Kolar Gold Fields was hardly 1/40th of the total output in the world, he did not see why such a law should be in force in Mysore, while it was nowhere else in force. He had no objection if an appeal was provided to the Sessions Court instead of to the Chief Court.

THE SECOND MEMBER OF COUNCIL said that even if the power was transferred to the Magistrate, there would be certain points of objection which the Government should like to think over.

THE INSPECTOR-GENERAL OF POLICE said that if the enquiry was entrusted to the Magistrate confidential evidence collected by the Police could not be placed before him. He added that Section 17 of the Mines Regulation was an exceptional measure as conditions in the Gold Fields were also exceptional. If the enquiry was entrusted to a Magistrate it was inevitable that it should be judicial or at least quasi-judicial and that he could not have all the sources of information available to the Superintendent of Police. It is the latter officer who felt the responsibility for preventing gold thefts more than any other functionary in the district. There was an influential organisation in the Fields working secretly and the difficulty of the Police in detecting cases was very great and even in the present circumstances, the

resources of the Police were very inadequate. It would be very difficult to produce before the Magistrate satisfactory judicial evidence.

MR. C. SUBBA RAO observed that when there was no evidence to satisfy the Magistrate and when there were no reasons even for a *prima facie* case, there was no justification for a man being subjected to punishment.

MR. B. NARASINGA RAO enquired how, if the evidence produced by the Police could not see the light of day, could a man be stabbed like that in the dark.

MR. C. SUBBA RAO suggested that the power might in the first instance be given as an experimental measure to the Special Magistrate and that, if any difficulty was experienced, the position might be reconsidered later.

THE INSPECTOR-GENERAL OF POLICE observed that the confidential information that might be collected by the Police could not very often be proved judicially though the Police might be quite certain about its truth. The District Magistrate who examined the information produced by the Police would test it in the light of any other evidence that might be produced by the party affected. When he (the Inspector-General of Police) was the Deputy Commissioner of Kolar, such cases came before him and he had cancelled the orders of the Superintendent of Police in several cases. The District Magistrate was an independent and responsible officer interested as much in Police Administration as in guarding against harassment of innocent people. It is he that heard the appeals and he would therefore have an opportunity to see both sides and decide on the merits.

MR. C. SUBBA RAO observed that all the same the burden of proof lay on the accused as the presumption from the beginning was against the man. He had to show cause why he should not be punished. The net result of the procedure suggested in the amendment was that while he was not proposed to be given any hearing at all under the existing law, in the present amendment a hearing was given to him and nothing more. After the prosecution presented evidence against him, the accused would not be called upon to reply. In these circumstances he thought that the so called enquiry would not be of any use to the accused. That was the reason why he asked that even the Police Superintendent should place the case before a Magistrate.

With reference to the observation made by the Inspector-General of Police, MR. B. NARASINGA RAO said that the District Magistrate could test the conduct of the accused on

the perusal of the Police diaries alone. He thought that it would be hard on the man if he should be convicted on such Police diaries. If, on the other hand, the whole record of evidence went before a Magistrate, his order would be tested in a court of law. Under the present conditions, the accused himself had to show that he was innocent. The burden of proof lay on him. In this enlightened century, it was impossible to conceive that even a single man should lose his liberty without a judicial enquiry.

Referring to Clause (3) of the Bill, he said that the man might be sent out for six months in the first instance and by the time that period expired, the Police would be ready with an order for the addition of a further period of expulsion. That, he thought, would be a continuous punishment which was not justifiable. If, on the other hand, the accused were given a chance to be heard before the order of expulsion was passed on him, that would be right.

Referring to the definition of the word "undesirable," he said that in one place conviction was prescribed while in the other a mere suspicion was sufficient to bring him under the term "undesirable." The suspicion that he was a disorganiser of labour was sufficient to make him undesirable. Even if he did not do anything more than bringing the labourers into a friendly union, he would be suspected. This, he thought, was highly prejudicial to the liberty of a person. It was necessary in his opinion to define "disorganiser of labour." Again, the item (*e*) of the clause was too vague and covered every possible thing. If that were adopted, the other parts of the definition became quite unnecessary.

All things considered, he thought that Clause (*e*) of the definition should be removed altogether, "only persons who were convicted more than once" should be included in the definition, and that the enquiry should be before a Magistrate. He thought that it was then alone that the measure would be useful.

MR. SRINIVASA RAO of Kolar did not agree with Mr. Narasinga Rao. So far as he knew, when any gold theft occurred and the thief was caught red handed, he would throw away the gold and decamp. In such a case, he did not see what kind of evidence the Police could bring against him.

KHAN BAHADUR MAHOMED ABBAS KHAN observed that if people went to Kolar Gold Fields, it was either for trade or for theft. It was the duty of the Police to prevent thefts.

For over 20 years, there was a rule under which the Police could expel a man without previous notice. It was in pursuance of the wishes of the people that the Government brought the present amending Bill. When the mining people were paying to Government a royalty of over Rs. 13 lakhs every year, it was the duty of the Government to help them in the prevention of theft of gold. He was of opinion that the amended Regulation might be worked for some time. He thought that people knowing the conditions in the Gold Fields would not oppose the Bill at all. A very extensive industry was going on in the Kolar Gold Fields which brought a large income to the State and it was incumbent on the part of Government to give adequate protection to the industry. He thought that the present amendment subjecting the order of the Police Superintendent to an appeal before the District Magistrate was a very desirable step taken by the Government.

MR. N. G. SANJEEVIAH thought that the conditions in the Gold Fields were such that invidious treatment was given to Indians and Europeans. He thought that Clauses (*e*) and (*c*) of the definition of "undesirable" were very harsh and should be removed.

THE DEWAN observed that there seemed no necessity to discuss the details of the measure in this House as that would be done in the Legislative Council.

MR. RAZVI thought that the Bill was quite right except for a provision regarding appeals.

Referring to the opinion expressed by Mr. Mahomed Abbas Khan, MR. D. S. MALLAPPA said that all that was wanted was that the expulsion should not be arbitrary, but that it should be subject to a judicial enquiry. When the question was last discussed in the Assembly, it was not meant that the definition of the word "undesirable" should be more rigorous than before. In his opinion the definition was harsher than ever. The Bill gave power to the Police to drive away people from the Gold Fields without considering whether they were actuated by motives of helping the poor labourers or not. He observed that the treatment given to the labourers by the Police was very well known and that the present amendment did not help the people at all. He was of opinion that the liberty of the people was very sacred and that it should not be sacrificed in the interests of the foreigners. He had no objection if the Police punished the real culprits, but they should not have the powers proposed in the Bill to be exercised by them without provision for legal intervention.

In these circumstances, he thought that the present Bill should be withdrawn and a new Bill brought before the Assembly.

MR. H. C. DASAPPA thought that an amendment to the Regulation was quite necessary, but that it should be more helpful to the people than otherwise.

THE SECOND MEMBER OF COUNCIL said that the Bill had been discussed sufficiently and that except perhaps one or two small changes the Government could not accept all the suggestions made by the members.

The Bill as it stood was put to vote and lost, only 3 members being in favour and a large majority against it.

GENERAL RESOLUTIONS.—*contd.*

Resolution No. 3.

MR. M. C. LINGE GOWDA moved the following resolution :—

" That this Assembly recommends to the Government of His Highness the Maharaja that at least two Judges of the Chief Court should be from the Backward Communities."

MR. S. C. MALLIAH seconded the resolution.

There was no discussion on the resolution and it was put to vote and passed *nem con.*

Resolution No. 4.

MR. PUTTASWAMI moved the following resolution :—

" That this Assembly recommends to the Government of His Highness the Maharaja that facilities should be provided for pupils of all communities to be admitted to all the classes of the Maharaja's Sanskrit College, Mysore, for study."

MR. B. CHANNAPPA seconded the resolution.

There was no discussion on the resolution and it was put to vote and passed by a very large majority.

Resolution No. 5

MR. GOPALA RAO moved the following resolution :—

" That this Assembly recommends to the Government of His Highness the Maharaja that the offer of reward for shooting tigers by the public may be revived at least in the case of local people and the restrictions that one Shikar should not kill more than one tiger and that wild animals should not be pursued or killed though causing damage to the crops or cattle should be removed. "